

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

JASON DOVE,)
)
Plaintiff,)
)
v.) Case No. 1:16-cv-413
)
DEKALB COUNTY SHERIFF)
DONALD LAUER,)
QUALITY CORRECTIONAL CARE, L.L.C.,)
and NURSE BLAIR,)
)
Defendants.)

NOTICE OF REMOVAL

**TO: THE HONORABLE JUDGES OF THE
UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF INDIANA**

The Defendants, Quality Correctional Care, L.L.C. and Nurse Blair Lipsey (hereinafter “The Quality Correctional Care Defendants”), by their counsel, reserving any and all rights, objections, defenses, and exceptions, respectfully file this Notice of Removal pursuant to 28 U.S.C. §§1331, 1332, 1441, and 1446, and removes this action from the DeKalb Superior Court, Cause No. 17D01-16-11-CT-00035 (the “State Court Action”) to the United State District Court for the Northern District of Indiana, Fort Wayne Division. The Quality Correctional Care Defendants remove this case based on federal questions and complete diversity of citizenship between the Plaintiff, Jason Dove, and the Quality Correctional Care Defendants. As grounds for the removal of the State Court Action, the Quality Correctional Care Defendants state as follows:

1. On or about November 14, 2016, Quality Correctional Care, L.L.C. received several documents filed in the DeKalb Superior Court, captioned Jason Dove v. DeKalb County Sheriff Donald Lauer, Quality Correctional Care, L.L.C., and Nurse Blair, Cause Number 17D01-1611-CT-00035. These documents included, but are not limited to the Plaintiff's Complaint and Jury Demand. Attached hereto as [Exhibit A](#) are copies of the Chronological Case Summary for Case No. 17D01-1611-CT-000035 in the DeKalb Superior Court, Complaint and Jury Demand, Summons to Quality Correctional Care, L.L.C., Appearance by the Plaintiff's counsel, Appearance by the Quality Correctional Care Defendants' counsel, Motion for Initial Extension of Time in which to Respond to the Plaintiff's Complaint, and Order Granting Motion for Initial Extension of Time, which constitutes all process and pleadings delivered to or served up the Quality Correctional Care Defendants.

2. On or about November 12, 2016, Nurse Blair Lipsey received the same documents filed in the DeKalb Superior Court.

3. The Plaintiff asserts in his Complaint that he is a resident of the State of West Virginia. [Exhibit A](#), Complaint and Jury Demand, ¶3(a).

4. The two members of Quality Correctional Care, L.L.C. are Indiana residents.

5. This is a civil action that alleges a violation the U.S. Constitution and Federal statutes under which this Court would have original jurisdiction under 28 U.S.C. §1331 without regard to the citizenship of the parties or the amount in controversy. Specifically, the Plaintiff alleges violations of the Rehabilitation Act, 29 U.S.C. §794a; Americans with Disability Act, 42 U.S.C. §12132; and violations of the Eighth Amendment and Fourteenth Amendment of the U.S. Constitution.

6. This civil action also alleges State law claims for negligent infliction of emotional distress and negligence, which are removable to this Honorable Court pursuant to 28 U.S.C. §1441(c)(1).

7. Under 28 U.S.C. §1332, federal district courts have original jurisdiction over civil actions based on diversity of the parties.

8. Diversity jurisdiction pursuant to 28 U.S.C. §1332(a) also requires that the amount in controversy, exclusive of interests and costs, be in excess of \$75,000.

9. Here, the initial pleading does not demand a specific sum.

10. This Notice of Removal is timely under 28 U.S.C. §1446(b) because it is being filed within thirty days after the Quality Correctional Care Defendants' receipt of the initial pleading containing the allegations supporting removal.

11. Promptly upon filing of this Notice of Removal, a true copy of this Notice of Removal, together with a Notice of Removal of Case to Federal Court, will be provided to all adverse parties pursuant to 28 U.S.C. § 1446(d) and will be filed with the Clerk of the Court for the DeKalb Superior Court, State of Indiana.

12. The United States District Court for the Northern District of Indiana, Fort Wayne Division, is the federal judicial district embracing DeKalb County, State of Indiana, where the suit is pending and, therefore, removal to this Court is proper pursuant to 28 U.S.C. §§ 1441(a) and 94(a).

13. The Co-Defendant does not object to this removal, and his consent is attached as Exhibit B.

14. A Civil Cover Sheet and a Corporate Disclosure Statement for Quality Correctional Care, L.L.C. is being filed with this Notice of Removal.

15. By filing this Notice of Removal, the Quality Correctional Care Defendants do not waive any defenses they may have in this action. They intend no admission of fact, law or liability by filing this Notice of Removal, and expressly reserve all defenses.

WHEREFORE, the Quality Correctional Care Defendants respectfully request that this Notice of Removal be deemed good and sufficient, and that Cause No. 17D01-1611-CT-00035 be removed from the DeKalb Superior Court, State of Indiana, to the docket of this honorable Court, and requests this Court assume full jurisdiction over the matter as provided by law and permit this action to proceed before it as a matter properly removed thereto.

Respectfully submitted,

DREWRY SIMMONS VORNEHM, LLP

By: /s/ Janet A. McSharar
Janet A. McSharar

CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of December, 2016, a copy of the foregoing was filed electronically with the Court. Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

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